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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JERROMY LAVERNE JOHNSON,
DEBORAH MURPHY,
MARK ALLEN GARRETT, and
BEVERLY LYNN PHILLIPS

Appeal 2010-003724
Application 10/649,252
Technology Center 3600

Before MURRIEL E. CRAWFORD, ANTON W. FETTING, and JOSEPH A. FISCHETTI, *Administrative Patent Judges.*

FETTING, *Administrative Patent Judge.*

DECISION ON APPEAL[1]

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE[2]

Jerromy Laverne Johnson, Deborah Murphy, Mark Allen Garrett, and Beverly Lynn Phillips (Appellants) seek review under 35 U.S.C. § 134 (2002) of a final rejection of claims 1-21, the only claims pending in the application on appeal. We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b) (2002).

The Appellants invented a system and method for establishing rates for a property insurance policy. Specification ¶ 0001.

An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below [bracketed matter and some paragraphing added].

> 1. A method for establishing rates for a property insurance policy, the method comprising:
>
> [1] determining a single tier placement for an applicant dependent upon a combination of mutually exclusive factors based on a plurality of data about the applicant, such that no single risk characteristic is the sole determinant for placement in a tier, the factors including:
>
> a) a protection class; and
>
> b) a previous paid loss history; and

[2] Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed October 10, 2008) and the Examiner's Answer ("Ans.," mailed May 19, 2009), and Final Rejection ("Final Rej.," mailed February 6, 2008).

[2] establishing a rate quote for a property insurance policy of a single insurance company for the applicant based on the tier placement of the applicant, wherein the tier placement results in one of a preferred rate quote, a standard rate quote, and a nonstandard rate quote.

The Examiner relies upon the following prior art:

Ogawa et al.	US 2001/0023404 A1	Sep. 20, 2001
Jinks	US 2002/0055862 A1	May 9, 2002

ChoicePoint, www.choicepoint.net, Internet Archive, Jan. 24, 2002

Claims 1-6, 14, 16, and 18-19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Jinks and Ogawa.

Claims 7-13, 15, 17, and 20-21 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Jinks, Ogawa, and Choicepoint.

ISSUES

The issue of whether the Examiner erred in rejecting claims 1-6, 14, 16, and 18-19 under 35 U.S.C. § 103(a) as unpatentable over Jinks and Ogawa turns on whether Jinks and Ogawa describe limitation [2] of claim 1, and as recited in independent claims 14 and 18.

The issue of whether the Examiner erred in rejecting claims 7-13, 15, 17, and 20-21 under 35 U.S.C. § 103(a) as unpatentable over Jinks, Ogawa, and Choicepoint turns on whether the Appellants' arguments in support of independent claims 1, 14, and 18 are found to be persuasive.

FACTS PERTINENT TO THE ISSUES

The following enumerated Findings of Fact (FF) are believed to be supported by a preponderance of the evidence.

Facts Related to the Prior Art

Jinks

01. Jinks is directed to systems and methods for collecting insurance information, providing premium quotations, and issuing insurance policies. Jinks ¶ 0001.

02. Jinks describes a system where an agent inputs risk information and insurance class information in to the system and this information is processed to determine whether a premium may be quoted for the particular risk. Jinks ¶'s 0006 and 0024. If the risk can be evaluated by the system, the system provides an insurance premium quotation for each carrier whose rules are satisfied by the insurance risk. Jinks ¶ 0006.

Ogawa

03. Ogawa is directed to a technique that permits prospective insurance buyers to obtain premium estimates from a premium trial-calculation system, a computer system, and a medium, particularly to an art to be effectively applied to comparative estimate for a plurality of companies. Ogawa ¶ 0002.

04. Ogawa describes that the prior art required a consumer to access the home pages of each underwriter to calculate the

premium for an insurance commodity from that underwriter. Ogawa ¶'s 0005-0006.

05. Ogawa describes a system where a consumer inputs the necessary data to determine a premium and this data is transmitted to the service underwriter's computer. Ogawa ¶ 0010. The underwriter estimates a premium for insurance commodity based on the data and sends the estimate to the user's computer. Ogawa ¶ 0010. The user can then compare estimated premiums from a plurality of insurance companies based on the input data. Ogawa ¶'s 0010-0011.

Choicepoint

06. Choicepoint is directed to an information system for the insurance industry. Choicepoint 3.

ANALYSIS

Claims 1-6, 14, 16, and 18-19 rejected under 35 U.S.C. § 103(a) as unpatentable over Jinks and Ogawa

The Appellants contend that Jinks and Ogawa fail to describe limitation [2] of claim 1, and as recited in claims 14 and 18. App. Br. 6-7. We agree with the Appellants. Limitation [2] requires establishing a rate quote for a property insurance policy of a single insurance company. Limitation [2] further requires that the rate quote is based on the tier placement of the applicant, where the tier placement is either a preferred rate quote, a standard rate quote, or a non-standard rate quote.

Jinks and Ogawa both describe systems for determining insurance premium quotes for an applicant. FF 02 and 05. While both Jinks and Ogawa describe determining rate quotes from a plurality of insurance companies (FF 02 and 05), Ogawa describes that it was known to determine an insurance premium quote for only one company. FF 04.

However, neither Jinks nor Ogawa describe that the rate quote is based on a tier placement and the tier placements are one of a preferred rate quote, a standard rate quote, and a non-standard rate quote, as is further required by limitation [2]. The Examiner correctly found that Ogawa describes determining rate quotes for a single insurance company (Ans. 13-14), but failed to provide a specific citation of where Ogawa or Jinks describe a tier placement that is one of a preferred rate quote, a standard rate quote, and a non-standard rate quote. We find no evidence that Ogawa or Jinks describe this feature required by limitation [2].

Claims 7-13, 15, 17, and 20-21 rejected under 35 U.S.C. § 103(a) as unpatentable over Jinks, Ogawa, and Choicepoint

The Appellants contend that claims 7-13, 15, 17, and 20-21 are allowable for the same reasons submitted in support of claim 1 *supra*. App. Br. 9. We agree with the Appellants. The Appellants' arguments in support of independent claims 1, 14, and 18 were found to be persuasive *supra* and are found to be persuasive here for the same reasons.

CONCLUSIONS OF LAW

The Examiner erred in rejecting claims 1-6, 14, 16, and 18-19 under 35 U.S.C. § 103(a) as unpatentable over Jinks and Ogawa.

The Examiner erred in rejecting claims 7-13, 15, 17, and 20-21 under 35 U.S.C. § 103(a) as unpatentable over Jinks, Ogawa, and Choicepoint.

DECISION

To summarize, our decision is as follows.

- The rejection of claims 1-6, 14, 16, and 18-19 under 35 U.S.C. § 103(a) as unpatentable over Jinks and Ogawa is not sustained.
- The rejection of claims 7-13, 15, 17, and 20-21 under 35 U.S.C. § 103(a) as unpatentable over Jinks, Ogawa, and Choicepoint is not sustained.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

REVERSED

mev

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